

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Shelley Analyst: Roger Lackey Bill Number: AB 2799

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 06-22-2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Public Record Disclosure/Make Available In Electronic Format If Available & When Requested

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Support.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 23, 2000, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would require any state or local agency that has public information in an electronic format to make that information available to the public in the electronic format in which the state agency holds the information. The requester would pay the direct cost of duplicating the public record in an electronic format.

This bill would further require a public record to be disclosed if, on the facts of the particular case, the public interest is served by disclosing the record.

SUMMARY OF AMENDMENT

The June 22, 2000, amendments would provide that "unusual circumstances" under which an agency may delay providing a record would include the need to compile data, to write program language or a computer program, or to construct a computer report to extract data.

The amendments also would provide that a public agency would not have to make records that are exempt from disclosure available in an electronic format. In addition, the amendments would define what would constitute the cost of duplication. The amendments also would provide that a public agency could refuse to disclose an electronic record if it feels that disclosure would jeopardize or compromise the security or integrity of the original record.

As a result of the amendment, an implementation consideration has arisen and is included below.

Except for the discussion above, the department's analysis of the bill as amended May 23, 2000, still applies.

Board Position:

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<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

7/7/00

IMPLEMENTATION CONSIDERATION

The terms "compile data" and "construct a record" are unclear. These terms could be interpreted to require a state agency to create a new public record to satisfy a request. The California Public Records Act requires state agencies to provide copies of **existing** public records not to create new public records upon request. The bill should clarify the meaning of these terms.

BOARD POSITION

Support.

At its July 5, 2000, meeting, the Franchise Tax Board voted 2-0 to support this bill, with member B. Timothy Gage abstaining.